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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,690	09/25/2003	Kiyoteru Yuta	A-9936	4437
181	7590	01/26/2006	EXAMINER	
MILES & STOCKBRIDGE PC 1751 PINNACLE DRIVE SUITE 500 MCLEAN, VA 22102-3833			JACKSON, ANDRE L	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/669,690

Applicant(s)

YUTA ET AL.

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☒ Claim(s) 7-9, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 10-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

DETAILED ACTION

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 10, 2005 has been entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-9 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 4,550,891 to Schaty. Schaty discloses a clip fastener for pipes comprising;

a base (10) attachable to a stud surface (Fig. 4); a protrusion (26) on the base for insertion or attachment to a portion of the stud surface; and an engagement holder (18, 20) on the base, wherein the clip fastener has a pair of U-shaped clip engagement means (14), having inlets (16) facing away from the base, and being spaced from one another for receiving and retaining respective pipes or tubular objects.

As to claim 8 and 16, each of the U-shaped clip engagement means is a part of the base and respective engagement holders as seen in Fig. 1 as a unitary piece.

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Further, inwardly formed protrusions on the engagement holders and clip engagement means at the inlets define latch parts cooperating with the pipes or other tubular objects to assist in retaining these structures within the inlets (Fig. 1).

As to claim 9, the engagement holder includes a pair of arcuate arms (18) having one end pivotally mounted on the base at (24), the arms having respective free ends constructed for connection to one another to form a band surrounding a fastener object.

***Allowable Subject Matter***

Claims 10-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-6 are allowed over the prior art of record.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art fails to disclose or suggest the structural limitations as set forth in applicant's amended claims above. In particular, the prior art fails to disclose or suggest a clip or clamp fastener including a base defining an engagement protrusion. A holder pivotally supported on the base between first and second positions, the first position being away from the base and the second position being adjacent the base, where a space is formed between a portion of the holder and the base in the second position. A holder engagement means connects the holder to the base in the second position. Further, first and second molding engagement means having inlets facing away from the base, wherein the first molding engagement means is defined adjacent the holder engagement means and the second molding engagement means is defined adjacent the pivotal

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connection of the holder relative to the base. The prior art fails to disclose the structural arrangement of the limitations or the combination of structural limitations as claimed.

### ***Response to Applicant's Arguments***

Applicant's argument filed in the Amendment of November 10, 2005, with respect to the rejection(s) of claims 1-3, 7-12, 15 and 16 over Pavlak et al and claims 4-6, 13 and 14 over Pavlak et al in view of Girodo have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration in response to applicant's amendment to the claims, a new ground(s) of rejection is made in view of newly discovered prior art reference #4,550,891 to Schaty. Accordingly, claims 7-9, 15 and 16 are found to be unpatentable over Schaty. Claims 1-6 are indicated as being allowed over the prior art and claims 10-14 are objected to.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

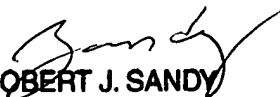
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
AU 3677

ALJ

  
**ROBERT J. SANDY**  
PRIMARY EXAMINER